

In the Matter of Merchant Mariner's Document No. Z-622247  
Issued to: ROBERT ROSADO

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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ROBERT ROSADO

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 6 June, 1952, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-622247 issued to Robert Rosado upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as elevator operator on board the American SS WASHINGTON under authority of the document above described, on or about 25 May, 1952, he wrongfully had in his possession a quantity of marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although clearly advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made a statement of the circumstances attending Appellant's apprehension with the marijuana in his possession.

Appellant was afforded an opportunity to make a statement but declined to do so.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-622247 and all other licenses, certificates of service and documents issued to this Appellant.

From that order, this appeal has been taken, and it is urged:

- (1) Appellant, without counsel, did not know that after his plea was entered no testimony would be taken; and he was thus deprived of an opportunity to show that he was an innocent dupe of his shipmate, Reyes.

- (2) Revocation is too harsh and severe in the light of Appellant's prior record, and domestic responsibilities.

APPEARANCES:

Emanuel Friedman, Esq., 51 Chambers Street, New York City, for Appellant.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 25 May, 1952, Appellant was serving as elevator operator on board the American SS WASHINGTON and acting under authority of his Merchant Mariner's Document No. Z-622247 while said vessel was in port at Bremerhaven, Germany.

While leaving said vessel's birth area in a cab, accompanied by a shipmate named Reyes, Appellant was apprehended by German authorities with marijuana cigarettes in his possession. He paid a fine and was released by the authorities.

Appellant has told two stories respecting the circumstances attending his acquisition of the marijuana, neither of which suggests that he was an innocent dupe of Reyes. I agree with the Examiner that no matter which story is accepted, the fact remains uncontroverted that he had marijuana in his possession on the date stated.

OPINION

Appellant was informed of his rights in defense of the charge on 4 June, 1952.

When the Investigating Officer concluded his statement narrating the facts, the Examiner asked (R.5), "Is there anything you have to say, Mr. Rosado, about this?"; to which Appellant replied, "No, sir." That was the time when Appellant should have told of the circumstances which bore upon his present claim of innocence.

Appellant's domestic status gave him no concern when he set forth on his illfated trip ashore on 25 May, 1952; so I am not favorably impressed by such argument at this time.

I am not favorable impressed by any of the points raised by this appeal. For years, the Coast Guard has adhered to the policy that seamen who use or otherwise have association with drugs and narcotics are undesirable in the American Merchant Marine. I entertain genuine doubt that Appellant has not learned of that policy before this time.

ORDER

The Order of the Examiner dated New York, New York, on 6 June, 1952 is AFFIRMED.

Merlin O'Neill  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 24th day of July, 1952.